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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/792,044	03/02/2004	John J. Kochevar	RAR112.03	4828
29762 7590 01/04/2007 RICHARD A. RYAN ATTORNEY AT LAW 8497 N. MILLBROOK AVENUE SUITE 101 FRESNO, CA 93720			EXAMINER JOYNER, KEVIN	
			ART.UNIT	PAPER NUMBER
			1744	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		01/04/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/792,044

Applicant(s)

KOCHEVAR, JOHN J.

Examiner

Kevin C. Joyner

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 7, 15, 19 and 20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-6, 8-14 and 16-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 3/2/04.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-18, drawn to a vacuum line sanitization device, classified in class 422, subclass 292.
  - II. Claims 19 and 20, drawn to a method of sanitizing a vacuum line, classified in class 422, subclass 33.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions of Group I and Group II are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another and materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the apparatus may be used with a materially different process. More specifically, the apparatus may be used in a process that dispenses water and uses a blowing device instead of a vacuum device as the means for selectively dispensing the fluid, in which the water is injected into the fluid chamber, mixed with the sanitizing mixture, and blown out through the outlet valve to produce a sanitized fluid.
3. Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required

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because the inventions have acquired a separate status in the art in view of their different classification, restriction for examination purposes as indicated is proper.

4. If the applicant elects Group I, then a species restriction is also proper. This application contains claims directed to the following patentably distinct species:

- I. Directed to a sealing means comprising a quick release valve concerning claims 6 and 14.
- II. Directed to a sealing means comprising a seat valve concerning claims 7 and 15.

The species are independent or distinct because one involves a sealing means being a quick release valve while the other involves a sealing means being directed to a seat valve. Each group pertains to different embodiments of the invention.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1 and 11 are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

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Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species.

MPEP § 809.02(a).

5. During a telephone conversation with Mr. Richard Ryan on December 19, 2006 a provisional election was made with traverse to prosecute the invention of Group I, claims 1-18. Upon election of Group I, a species election was also made to prosecute the invention of Species I. Affirmation of this election must be made by applicant in replying to this Office action. Claims 7, 15, 19 and 20 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-4, 5, 8, 9, 11-13, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dooley Jr. et al. (U.S. Patent No. 7,081,232) in view of Mock, Sr. et al. (U.S. Patent No. 7,065,803).

Concerning claims 1, 4, 5, and 11, Dooley Jr. discloses a vacuum line sanitization device that is capable of sanitizing a vacuum line comprising:

A canister body (The housing 10 and closed bottom 51 make up a canister body.) having a first end and an opposing second end, said canister body forming a fluid chamber therein, said fluid chamber configured to receive a supply of chemicals suitable for sanitizing the vacuum line as disclosed in the abstract;

An inlet (23) at the first end on said canister body in communication with said fluid chamber that is capable of disposing a fluid inside said fluid chamber, said fluid selected so as to form a sanitizing mixture when combined with said supply of chemicals as disclosed in column 6, lines 33-40;

An inlet valve at said inlet, said inlet valve configured to connect to a fluid supply line and receive said fluid therefrom, said inlet valve further configured to prevent flow of said fluid from said fluid chamber out of said canister body through said fluid inlet as disclosed in column 6, lines 36-40;

An outlet (7) at a second end of said canister body in communication with said fluid chamber, said outlet having an outlet stem (11), said outlet stem sized and configured to connect said outlet to an end of the vacuum line as disclosed in column 6, lines 25-32.

While Dooley discloses providing a valve for the inlet to control the flow of the fluid, Dooley does not appear to disclose that the outlet comprises an outlet valve configured to selectively allow said fluid to flow through the vacuum line so as to clean and sanitize the vacuum line, whereby the vacuum line is sanitized by opening said

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dispensing means to draw said sanitizing mixture through the vacuum line. More specifically, concerning claims 8, said valve comprising a closeable valve. Mock discloses a device used for dispensing a sanitizer through lines into a pool. The sanitizer, which is known to sanitize the lines during the transfer process as well, is placed in a permeable bag inside of a canister (100) where it is dissolved into a mixture and transferred to the pool through a series of lines as shown in Figure 1. The canister also comprises an inlet (105) and outlet (108) that comprises valves configured to selectively allow said fluid to flow through the line so as to clean and sanitize the line, whereby the line is sanitized by opening said dispensing means to draw said mixture through the line as disclosed in column 6, lines 1-12 and column 3, lines 8-13.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the apparatus of Dooley Jr. to include a valve on the outlet of the canister as exemplified by Mock Sr. in order to regulate the amount of solution that exits the canister.

Concerning claims 2, 3, 12, and 13 Dooley Jr. also discloses that the device further comprises an inner chamber (14) with a perforated sleeve (19) in said canister body, said inner chamber in fluid communication with said fluid chamber, said inner chamber configured to receive said supply of chemicals as disclosed in columns 4 and 5, lines 54-67 and lines 1-6 respectively.

Concerning claims 9 and 16, Dooley Jr. continues to disclose that the supply of chemicals is a solid chemical cartridge as disclosed in column 8, lines 22-33. More

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specifically, the container (50) is solid, contains chemicals, and is a cartridge as broadly defined.

8. Claims 6 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dooley Jr. et al. (U.S. Patent No. 7,081,232) in view of Mock Sr. et al. (U.S. Patent No. 7,065,803) as applied to claims 1-4, 5, 8, 9, 11-13, and 16 above, and further in view of Fitton (U.S. Patent No. 6,106,771).

Dooley Jr. is relied upon as set forth in reference to claims 1-4, 5, 8, 9, 11-13, and 16 above. While Dooley Jr. discloses a valve as the means for sealing, Dooley Jr. in view of Mock does not appear to disclose that the inlet valve is a quick release valve. It is generally known in the art to provide water line inlet valves with a quick release in order to disconnect the line quickly. Fitton discloses a system for sanitizing water lines that includes a housing with a routing valve that is of the quick release type as disclosed in column 3, lines 16-20. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the device of Dooley Jr. by providing a quick release at the inlet in order to allow quick disconnection of the line as exemplified by Fitton.

9. Claims 10 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dooley Jr. et al. (U.S. Patent No. 7,081,232) in view of Mock Sr. et al. (U.S. Patent No. 7,065,803) as applied to claims 1-4, 5, 8, 9, 11-13, and 16 above, and further in view of Rauchwerger (U.S. Patent No. 5,743,287).

Dolley Jr. is relied upon as set forth in reference to claims 1-4, 5, 8, 9, 1-13, and 16 above. Dolley Jr. does not appear to disclose that the device further comprises an indicator configured to indicate when said supply of chemicals must be replaced.



However, applying an indicator to such a device is known in the art of sanitizing pipes in order to alert the operator when the sanitizing fluid has been exhausted from the device. One such example is disclosed by Rauchwerger in column 2, lines 5 and 6. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the apparatus of Dolley Jr. to include an indicator as exemplified by Rauchwerger in order to alert an operator when the sanitizing fluid has been exhausted.

10. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dooley Jr. et al. (U.S. Patent No. 7,081,232) in view of Mock Sr. et al. (U.S. Patent No. 7,065,803) as applied to claims 1-4, 5, 8, 9, 11-13, and 16 above, and further in view of Regunathan et al. (U.S. Patent No. 4,548,227).

Dooley Jr. is relied upon as set forth in reference to claims 1-4, 5, 8, 9, 11-13, and 16 above. Dooley Jr. does not appear to disclose that the inner chamber is configured to receive said solid chemical cartridge, but uses a chemical material in tablet form outside of the inner chamber to dissolve the chemical. Regunathan however, discloses a chemical feeding device that is utilized for delivering a concentrated chemical solution developed from a solid chemical material into a stream of flowing liquid. The reference further discloses that an inner chamber (referenced as a vessel (16)), is configured to receive a solid chemical cartridge (14) in order to feed a concentrated chemical solution into a stream of flowing liquid at a constant concentration that is independent of liquid pressure, flow rate or interruptions in flow of the fluid. Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to configure the inner chamber of Dolley Jr. to receive a solid chemical

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cartridge in order to feed the concentrated chemical solution into a stream of flowing liquid at a constant concentration that is independent of liquid pressure or flow rate as exemplified by Regunathan.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin C. Joyner whose telephone number is (571) 272-2709. The examiner can normally be reached on M-F 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys Corcoran can be reached on (571) 272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
GLADYS JP CORCORAN  
SUPERVISORY PATENT EXAMINER

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KCJ